IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Crl.Rev.Pet.No. 1825 of 2002()

CRA.42/1998 of SESSIONS COURT, MANJERI
CC.461/1996 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM
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REVN. PETITIONER: APPELLANT/ACCUSED:

SIVASANKARAN K.P., S/O. NARAYANAN,
VENGARA, MALAPPURAM.

BY ADV. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY BY
C.I. OF POLICE, MALAPPURAM.
THROUGH PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

BY ADV. SRI. C.K. SURESH, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 9723/2002 IN CRL.R.P. NO. 1825/2002

DISMISSED

22.11.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A. to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 1825 OF 2002

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Dated this the 22nd day of November, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279, 337 and 304 A IPC and sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for six months for the offence under Section 304 A IPC. and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for two months for the offence under Section 279 IPC. No separate sentence was awarded for the offence under Section 337 IPC. The prosecution case is that on 23.12.1994 at about 8.55 a.m. the accused drove the bus bearing Registration No. KLL 4757 through the Malappuram-Vengara public road from east to west in a rash and negligent manner so as to endanger human life and hit on a taxi jeep bearing Registration No. KLL 1662 that was coming from the opposite direction driven by the deceased Abdul Karim. The driver of the jeep and another passenger sustained grievous injuries and succumbed to the injuries sustained.

2. The evidence adduced in the matter consisted of the testimony of PWs 1 to 17 and Exts.P1 to P14. The prosecution version

as to the allegation of rash and negligent driving is supported by the version of PWs 2, 3 and 16, who were the passengers in the jeep. PW7, the conductor of the bus has identified the accused as the driver of the bus at the time of occurrence. PW4, the AMVI has proved Exts. P10 and P11 vehicle inspection reports as per which it is certified that the vehicle had no mechanical defect. Ext.P1, the scene mahazar would show that the vehicle driven by the accused was on the wrong side. In the circumstances and in view of the positive evidence adduced by the prosecution as to the manner in which the vehicle was driven and considering that the bus had no mechanical defect and that the identity stands established from the evidence of the conductor of the bus itself, I find that no interference is called for in the concurrent findings of the courts below. The conviction is confirmed.

3. The learned counsel for the petitioner pleaded for leniency pointing out that thirteen years have elapsed since the date of commencement of the proceedings and the accused was facing the criminal proceedings and has underwent untold mental strain and that he hailed from very poor circumstances and that his income is the sole means of livelihood of the members of his family. In the circumstances, I find that the imprisonment is to be avoided. The

sentence imposed for the offence under Section 304 A IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs. 20,000/- each to PWs8 and 10, the legal representatives of the deceased and in default to undergo simple imprisonment for six months each. He is sentenced to pay a fine of Rs.1000/- for the offence under Section 279 IPC and in default to undergo simple imprisonment for two weeks. The order of the court below not imposing separate sentence for the offence under Section 337 IPC is confirmed. The revision petitioner/accused is granted three months time to pay the amount of compensation. He shall appear before Judicial First Class Magistrate, Malappuram on **22.02.2008** to receive sentence.

The Crl.R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

rv

K.R. UDAYABHANU, J

CRL. R.P. NO. 1825 of 2002

22nd day of November, 2007

ORDER